

CONFERENCE REPORT ON H.R. 2559, AGRICULTURAL RISK PROTECTION ACT OF
2000

Mr. COMBEST submitted the following conference report and statement on the bill (H.R. 2559) to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.

Conference Report (H. Rept. 106-639)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2559), to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the
``Agricultural Risk Protection Act of 2000''.

(b) Table of Contents.--The table of contents of this Act is as follows:

TITLE I--CROP INSURANCE COVERAGE

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TITLE II--AGRICULTURAL ASSISTANCE

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TITLE III--BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000

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TITLE IV--PLANT PROTECTION ACT

Sec. 401. Short title.
Sec. 402. Findings.
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Subtitle A--Plant Protection

Sec. 411. Regulation of movement of plant pests.
Sec. 412. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of

conveyance.

Sec. 413. Notification and holding requirements upon arrival.

Sec. 414. General remedial measures for new plant pests and noxious weeds.

Sec. 415. Declaration of extraordinary emergency and resulting authorities.

Sec. 416. Recovery of compensation for unauthorized activities.

Sec. 417. Control of grasshoppers and mormon crickets.

Sec. 418. Certification for exports.

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Sec. 422. Collection of information.

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Sec. 434. Regulations and orders.

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Sec. 436. Preemption.

Sec. 437. Severability.

Sec. 438. Repeal of superseded laws.

Subtitle D--Authorization of Appropriations

Sec. 441. Authorization of appropriations.

Sec. 442. Transfer authority.

TITLE V--INSPECTION ANIMALS

Sec. 501. Civil penalty.

Sec. 502. Subpoena authority.

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TITLE IV--PLANT PROTECTION ACT

SEC. 401. SHORT TITLE.

This title may be cited as the ``Plant Protection Act''.

SEC. 402. FINDINGS.

Congress finds that--

(1) the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds, and its use should be facilitated by the Department of Agriculture, other Federal agencies, and States whenever feasible;

(3) it is the responsibility of the Secretary to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds;

(4) decisions affecting imports, exports, and interstate

movement of products regulated under this title shall be based on sound science;

(5) the smooth movement of enterable plants, plant products, biological control organisms, or other articles into, out of, or within the United States is vital to the United State's economy and should be facilitated to the extent possible;

(6) export markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(7) the unregulated movement of plant pests, noxious weeds, plants, certain biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds could present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(8) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could constitute a threat to crops and other plants or plant products of the United States and burden interstate commerce or foreign commerce; and

(9) all plant pests, noxious weeds, plants, plant products, articles capable of harboring plant pests or noxious weeds regulated under

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this title are in or affect interstate commerce or foreign commerce.

SEC. 403. DEFINITIONS.

In this title:

(1) Article.--The term ``article'' means any material or tangible object that could harbor plant pests or noxious weeds.

(2) Biological control organism.--The term ``biological control organism'' means any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

(3) Enter and entry.--The terms ``enter'' and ``entry'' mean to move into, or the act of movement into, the commerce of the United States.

(4) Export and exportation.--The terms ``export'' and ``exportation'' mean to move from, or the act of movement from, the United States to any place outside the United States.

(5) Import and importation.--The terms ``import'' and ``importation'' mean to move into, or the act of movement into, the territorial limits of the United States.

(6) Interstate.--The term ``interstate'' means--

(A) from one State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(7) Interstate commerce.--The term ``interstate commerce'' means trade, traffic, or other commerce--

(A) between a place in a State and a point in another State, or between points within the same State but through any place outside that State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(8) Means of conveyance.--The term ``means of conveyance'' means any personal property used for or intended for use for the movement of any other personal property.

(9) Move and related terms.--The terms ``move'', ``moving'', and ``movement'' mean--

(A) to carry, enter, import, mail, ship, or transport;
(B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;
(C) to offer to carry, enter, import, mail, ship, or transport;
(D) to receive to carry, enter, import, mail, ship, or transport;
(E) to release into the environment; or
(F) to allow any of the activities described in a preceding subparagraph.

(10) Noxious weed.--The term ``noxious weed'' means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

(11) Permit.--The term ``permit'' means a written or oral authorization, including by electronic methods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

(12) Person.--The term ``person'' means any individual, partnership, corporation, association, joint venture, or other legal entity.

(13) Plant.--The term ``plant'' means any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(14) Plant pest.--The term ``plant pest'' means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

(A) A protozoan.
(B) A nonhuman animal.
(C) A parasitic plant.
(D) A bacterium.
(E) A fungus.
(F) A virus or viroid.
(G) An infectious agent or other pathogen.
(H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

(15) Plant product.--The term ``plant product'' means--

(A) any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant; or

(B) any manufactured or processed plant or plant part.

(16) Secretary.--The term ``Secretary'' means the Secretary of Agriculture.

(17) State.--The term ``State'' means any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(18) Systems approach.--For the purposes of section 412(e), the term ``systems approach'' means a defined set of phytosanitary procedures, at least 2 of which have an independent effect in mitigating pest risk associated with the movement of commodities.

(19) This title.--Except when used in this section, the term ``this title'' includes any regulation or order issued by the Secretary under the authority of this title.

(20) United states.--The term ``United States'' means all of the States.

Subtitle A--Plant Protection

SEC. 411. REGULATION OF MOVEMENT OF PLANT PESTS.

(a) Prohibition of Unauthorized Movement of Plant Pests.-- Except as provided in subsection (c), no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) Requirements for Processes.--The Secretary shall ensure that the processes used in developing regulations under subsection (a) governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Authorization of Movement of Plant Pests by Regulation.--

(1) Exception to permit requirement.--The Secretary may issue regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the Secretary finds that a permit under subsection (a) is not necessary.

(2) Petition to add or remove plant pests from regulation.--Any person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations issued by the Secretary under paragraph (1).

(3) Response to petition by the secretary.--In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(d) Prohibition of Unauthorized Mailing of Plant Pests.--

(1) In general.--Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless the letter, parcel, box, or other package is mailed in compliance with such regulations as the Secretary may issue to prevent the dissemination of plant pests into the United States or interstate.

(2) Application of postal laws and regulations.--Nothing in this subsection authorizes any person to open any mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(e) Regulations.--Regulations issued by the Secretary to implement subsections (a), (c), and (d) may include provisions requiring that any plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from any post office--

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest--

(A) may be infested with other plant pests;

(B) may pose a significant risk of causing injury to, damage to, or disease in any plant or plant product; or

(C) may be a noxious weed; and

(4) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests.

SEC. 412. REGULATION OF MOVEMENT OF PLANTS, PLANT PRODUCTS,
BIOLOGICAL CONTROL ORGANISMS, NOXIOUS WEEDS,
ARTICLES, AND MEANS OF CONVEYANCE.

(a) In General.--The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) Policy.--The Secretary shall ensure that processes used in developing regulations under this section governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Regulations.--The Secretary may issue regulations to implement subsection (a), including regulations requiring that any plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce--

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) with respect to plants or biological control organisms, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant or biological control organism may be infested with plant pests or may be a plant pest or noxious weed.

(d) Notice.--Not later than 1 year after the date of enactment of this Act, the Secretary shall publish for public comment a notice describing the procedures and standards that govern the consideration of import requests. The notice shall--

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(1) specify how public input will be sought in advance of and during the process of promulgating regulations necessitating a risk assessment in order to ensure a fully transparent and publicly accessible process; and

(2) include consideration of the following:

(A) Public announcement of import requests that will necessitate a risk assessment.

(B) A process for assigning major/nonroutine or minor/routine status to such requests based on current state of supporting scientific information.

(C) A process for assigning priority to requests.

(D) Guidelines for seeking relevant scientific and economic information in advance of initiating informal rulemaking.

(E) Guidelines for ensuring availability and transparency of assumptions and uncertainties in the risk assessment process including applicable risk mitigation measures relied upon individually or as components of a system of mitigative measures proposed consistent with the purposes of this title.

(e) Study and Report on Systems Approach.--

(1) Study.--The Secretary shall conduct a study of the role

for and application of systems approaches designed to guard against the introduction of plant pathogens into the United States associated with proposals to import plants or plant products into the United States.

(2) Participation by scientists.--In conducting the study the Secretary shall ensure participation by scientists from State departments of agriculture, colleges and universities, the private sector, and the Agricultural Research Service.

(3) Report.--Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report on the results of the study conducted under this section to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

(f) Noxious Weeds.--

(1) Regulations.--In the case of noxious weeds, the Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) Petition to add or remove plants from regulation.--Any person may petition the Secretary to add a plant species to, or remove a plant species from, the regulations issued by the Secretary under this subsection.

(3) Duties of the secretary.--In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(g) Biological Control Organisms.--

(1) Regulations.--In the case of biological control organisms, the Secretary may publish, by regulation, a list of organisms whose movement in interstate commerce is not prohibited or restricted. Any listing may take into account distinctions between organisms such as indigenous, nonindigenous, newly introduced, or commercially raised.

(2) Petition to add or remove biological control organisms from the regulations.--Any person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the regulations issued by the Secretary under this subsection.

(3) Duties of the secretary.--In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

SEC. 413. NOTIFICATION AND HOLDING REQUIREMENTS UPON ARRIVAL.

(a) Duty of Secretary of the Treasury.--

(1) Notification.--The Secretary of the Treasury shall promptly notify the Secretary of Agriculture of the arrival of any plant, plant product, biological control organism, plant pest, or noxious weed at a port of entry.

(2) Holding.--The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, or noxious weed for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, or noxious weed--

(A) is inspected and authorized for entry into or transit movement through the United States; or

(B) is otherwise released by the Secretary of Agriculture.

(3) Exceptions.--Paragraphs (1) and (2) shall not apply to any plant, plant product, biological control organism, plant

pest, or noxious weed that is imported from a country or region of a country designated by the Secretary of Agriculture, pursuant to regulations, as exempt from the requirements of such paragraphs.

(b) Duty of Responsible Parties.--

(1) Notification.--The person responsible for any plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 411 or 412 shall provide the notification described in paragraph (3) as soon as possible after the arrival of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry.

(2) Submission.--The notification shall be provided to the Secretary, or, at the Secretary's direction, to the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe.

(3) Elements of notification.--The notification shall consist of the following:

(A) The name and address of the consignee.

(B) The nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved.

(C) The country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) Prohibition on Movement of Items Without Authorization.--No person shall move from a port of entry or interstate any imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance--

(1) is inspected and authorized for entry into or transit movement through the United States; or

(2) is otherwise released by the Secretary.

SEC. 414. GENERAL REMEDIAL MEASURES FOR NEW PLANT PESTS AND NOXIOUS WEEDS.

(a) Authority To Hold, Treat, or Destroy Items.--If the Secretary considers it necessary in order to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that--

(1) is moving into or through the United States or interstate, or has moved into or through the United States or interstate, and--

(A) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or

(B) is or has been otherwise in violation of this title;

(2) has not been maintained in compliance with a post-entry quarantine requirement; or

(3) is the progeny of any plant, biological control organism, plant product, plant pest, or noxious weed that is moving into or through the United States or interstate, or

has moved into the United States or interstate, in violation of this title.

(b) Authority To Order an Owner To Treat or Destroy.--

(1) In general.--The Secretary may order the owner of any plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in the manner the Secretary considers appropriate.

(2) Failure to comply.--If the owner or agent of the owner fails to comply with the Secretary's order under this subsection, the Secretary may take an action authorized by subsection (a) and recover from the owner or agent of the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

(c) Classification System.--

(1) Development required.--To facilitate control of noxious weeds, the Secretary may develop a classification system to describe the status and action levels for noxious weeds. The classification system may include the current geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

(2) Management plans.--In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

(d) Application of Least Drastic Action.--No plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

SEC. 415. DECLARATION OF EXTRAORDINARY EMERGENCY AND RESULTING AUTHORITIES.

(a) Authority To Declare.--If the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may--

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including any plants, biological control organisms, plant products, articles, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine any State or portion of a State in which the Secretary finds the plant pest or

noxious weed or any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; and

(4) prohibit or restrict the movement within a State of any plant, biological control organism, plant product, article, or means of conveyance when the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) Required Finding of Emergency.--The Secretary may take action under this section only upon finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(c) Notification Procedures.--

(1) In general.--Except as provided in paragraph (2), before any action is taken in any State under this section, the Secretary shall notify the Governor or other appropriate official of the State affected, issue a public announcement, and file for publication in the Federal Register a statement of--

- (A) the Secretary's findings;
- (B) the action the Secretary intends to take;
- (C) the reasons for the intended action; and
- (D) where practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) Time sensitive actions.--If it is not possible to file for publication in the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed 10 business days, after commencement of the action.

(d) Application of Least Drastic Action.--No plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(e) Payment of Compensation.--The Secretary may pay compensation to any person for economic losses incurred by the person as a result of action taken by the Secretary under this section. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review.

SEC. 416. RECOVERY OF COMPENSATION FOR UNAUTHORIZED ACTIVITIES.

(a) Recovery Action.--The owner of any plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 414 or 415 may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into

the environment), but only if the owner establishes that the destruction or disposal was not authorized under this title.

(b) Time for Action; Location.--An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance involved. The action may be brought in any United States district court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

SEC. 417. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS.

(a) In General.--Subject to the availability of funds pursuant to this section, the Secretary shall carry out a program to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland.

(b) Transfer Authority.--

(1) In general.--Subject to paragraph (3), upon the request of the Secretary of Agriculture, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior. The transferred funds shall be available only for the payment of obligations incurred on such Federal lands.

(2) Transfer requests.--Requests for the transfer of funds pursuant to this subsection shall be made as promptly as possible by the Secretary.

(3) Limitation.--Funds transferred pursuant to this subsection may not be used by the Secretary until funds specifically appropriated to the Secretary for grasshopper control have been exhausted.

(4) Replenishment of transferred funds.--Funds transferred pursuant to this subsection shall be replenished by supplemental or regular appropriations, which shall be requested as promptly as possible.

(c) Treatment for Grasshoppers and Mormon Crickets--

(1) In general.--Subject to the availability of funds pursuant to this section, on request of the administering agency or the agriculture department of an affected State, the Secretary, to protect rangeland, shall immediately treat Federal, State, or private lands that are infested with grasshoppers or Mormon crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) Other programs.--In carrying out this section, the Secretary shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) Federal Cost Share of Treatment.--

(1) Control on federal lands.--Out of funds made available or transferred under this section, the Secretary shall pay 100 percent of the cost of grasshopper or Mormon cricket control on Federal lands to protect rangeland.

(2) Control on state lands.--Out of funds made available under this section, the Secretary shall pay 50 percent of the cost of grasshopper or Mormon cricket control on State lands.

(3) Control on private lands.--Out of funds made available under this section, the Secretary shall pay 33.3 percent of the cost of grasshopper or Mormon cricket control on private lands.

(e) Training.--From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of

Agriculture shall provide adequate funding for a program to train personnel to accomplish effectively the objective of this section.

SEC. 418. CERTIFICATION FOR EXPORTS.

The Secretary may certify as to the freedom of plants, plant products, or biological control organisms from plant pests or noxious weeds, or the exposure of plants, plant products, or biological control organisms to plant pests or noxious weeds, according to the phytosanitary or other requirements of the countries to which the plants, plant products, or biological control organisms may be exported.

Subtitle B--Inspection and Enforcement

SEC. 421. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) Role of Attorney General.--The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) Warrantless Inspections.--The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving--

(1) into the United States to determine whether the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this title;

(2) in interstate commerce, upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this title; and

(3) in intrastate commerce from or within any State, portion of a State, or premises quarantined as part of a extraordinary emergency declared under section 415 upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article regulated under that section or is moving subject to that section.

(c) Inspections With a Warrant.--

(1) General authority.--The Secretary may enter, with a warrant, any premises in the United States for the purpose of conducting investigations or making inspections and seizures under this title.

(2) Application and issuance of a warrant.--Upon proper oath or affirmation showing probable cause to believe that there is on certain premises any plant, plant product, biological control organism, plant pest, noxious weed, article, facility, or means of conveyance regulated under this title, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge's or magistrate's jurisdiction, issue a warrant for the entry upon the premises to conduct any investigation or make any inspection or seizure under this title. The warrant may be applied for and executed by the Secretary or any United States Marshal.

SEC. 422. COLLECTION OF INFORMATION.

The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this title.

SEC. 423. SUBPOENA AUTHORITY.

(a) Authority To Issue.--The Secretary shall have power to subpoena the attendance and testimony of any witness, and the

production of all documentary evidence relating to the administration or enforcement of this title or any matter under investigation in connection with this title.

(b) Location of Production.--The attendance of any witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) Enforcement of Subpoena.--In the case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony of any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court's order may be punished by the court as a contempt of the court.

(d) Compensation.--Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

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(e) Procedures.--The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) Scope of Subpoena.--Subpoenas for witnesses to attend court in any judicial district or to testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under this title may run to any other judicial district.

SEC. 424. PENALTIES FOR VIOLATION.

(a) Criminal Penalties.--Any person that knowingly violates this title, or that knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title shall be guilty of a misdemeanor, and, upon conviction, shall be fined in accordance with title 18, United States Code, imprisoned for a period not exceeding 1 year, or both.

(b) Civil Penalties.--

(1) In general.--Any person that violates this title, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of--

(A) \$50,000 in the case of any individual (except that the civil penalty may not exceed \$1,000 in the case of an initial violation of this title by an individual moving regulated articles not for monetary gain), \$250,000 in the case of any other person for each violation, and \$500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation.

forgery, counterfeiting, unauthorized use, defacing, or destruction of a certificate, permit, or other document provided for in this title that results in the person deriving pecuniary gain or causing pecuniary loss to another.

(2) Factors in determining civil penalty.--In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator--

- (A) ability to pay;
- (B) effect on ability to continue to do business;
- (C) any history of prior violations;
- (D) the degree of culpability; and
- (E) any other factors the Secretary considers appropriate.

(3) Settlement of civil penalties.--The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.(4) Finality of orders.--The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the Secretary's order may not be reviewed in an action to collect the civil penalty. Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) Liability for Acts of an Agent.--When construing and enforcing this title, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of his or her employment or office, shall be deemed also to be the act, omission, or failure of the other person.

(d) Guidelines for Civil Penalties.--The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this title.

SEC. 425. ENFORCEMENT ACTIONS OF ATTORNEY GENERAL.

The Attorney General may--

(1) prosecute, in the name of the United States, all criminal violations of this title that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this title, or to enjoin any interference by any person with the Secretary in carrying out this title, whenever the Secretary has reason to believe that the person has violated, or is about to violate this title, or has interfered, or is about to interfere, with the Secretary; and

(3) bring an action for the recovery of any unpaid civil penalty, funds under reimbursable agreements, late payment penalty, or interest assessed under this title.

SEC. 426. COURT JURISDICTION.

(a) In General.--The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions are vested with jurisdiction in all cases arising under this title. Any action arising under this title may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending

violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(b) Exception.--This section does not apply to the imposition of civil penalties under section 424(b).

Subtitle C--Miscellaneous Provisions

SEC. 431. COOPERATION.

(a) In General.--The Secretary may cooperate with other Federal agencies or entities, States or political subdivisions of States, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out this title.

(b) Responsibility.--The individual or entity cooperating with the Secretary under subsection (a) shall be responsible for--

(1) the authority necessary to conduct the operations or take measures on all land and properties within the foreign country or State, other than those owned or controlled by the United States; and

(2) other facilities and means as the Secretary determines necessary.

(c) Transfer of Biological Control Methods.--The Secretary may transfer to a State, Federal agency, or other person biological control methods using biological control organisms against plant pests or noxious weeds.

(d) Cooperation in Program Administration.--The Secretary may cooperate with State authorities or other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms.

(e) Phytosanitary Issues.--The Secretary shall ensure that phytosanitary issues involving imports and exports are addressed based on sound science and consistent with applicable international agreements. To accomplish these goals, the Secretary may--

(1) conduct direct negotiations with plant health officials or other appropriate officials of other countries;

(2) provide technical assistance, training, and guidance to any country requesting such assistance in the development of agricultural health protection systems and import/export systems; and

(3) maintain plant health and quarantine expertise in other countries--

(A) to facilitate the establishment of phytosanitary systems and the resolution of phytosanitary issues;

(B) to assist those countries with agricultural health protection activities; and

(C) to provide general liaison on agricultural health issues with the plant health or other appropriate officials of the country.

SEC. 432. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREEMENTS.

(a) In General.--To the extent necessary to carry out this title, the Secretary may acquire and maintain all real or personal property for special purposes and employ any persons, make grants, and enter into any contracts, cooperative agreements, memoranda of understanding, or other agreements.

(b) Tort Claims.--

(1) In general.--Except as provided in paragraph (2), the Secretary may pay tort claims in the manner authorized in the first paragraph of section 2672 of title 28, United States Code, when the claims arise outside the United States in connection with activities that are authorized under this

title.

(2) Requirements of claim.--A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary within 2 years after the date on which the claim accrues.

SEC. 433. REIMBURSABLE AGREEMENTS.

(a) Authority To Enter Into Agreements.--The Secretary may enter into reimbursable fee agreements with persons for preclearance of plants, plant products, biological control organisms, and articles at locations outside the United States for movement into the United States.

(b) Funds Collected for Preclearance.--Funds collected for preclearance shall be credited to accounts which may be established by the Secretary for this purpose and shall remain available until expended for the preclearance activities without fiscal year limitation.

(c) Payment of Employees.--

(1) In general.--Notwithstanding any other law, the Secretary may pay employees of the Department of Agriculture performing services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them, at rates of pay established by the Secretary.

(2) Reimbursement of the secretary.--

(A) In general.--The Secretary may require persons for whom the services are performed to reimburse the Secretary for any sums of money paid by the Secretary for the services.

(B) Use of funds.--All funds collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(d) Late Payment Penalties.--

(1) Collection.--Upon failure to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty, and the overdue funds shall accrue interest, as required by section 3717 of title 31, United States Code.

(2) Use of funds.--Any late payment penalty and any accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 434. REGULATIONS AND ORDERS.

The Secretary may issue such regulations and orders as the Secretary considers necessary to carry out this title.

SEC. 435. PROTECTION FOR MAIL HANDLERS.

This title shall not apply to any employee of the United States in the performance of the duties of the employee in handling the mail.

SEC. 436. PREEMPTION.

(a) Regulation of Foreign Commerce.--No State or political subdivision of a State may regulate in foreign commerce any article, means of

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conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order--

(1) to control a plant pest or noxious weed;

(2) to eradicate a plant pest or noxious weed; or

(3) prevent the introduction or dissemination of a

biological control organism, plant pest, or noxious weed.

(b) Regulation of Interstate Commerce.--

(1) In general.--Except as provided in paragraph (2), no State or political subdivision of a State may regulate the movement in interstate commerce of any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed, if the Secretary has issued a regulation or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed within the United States.

(2) Exceptions.--

(A) Regulations consistent with federal regulations.--A State or a political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, or plant products that are consistent with and do not exceed the regulations or orders issued by the Secretary.

(B) Special need.--A State or political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, plant products, biological control organisms, plant pests, or noxious weeds that are in addition to the prohibitions or restrictions imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.

SEC. 437. SEVERABILITY.

If any provision of this title or application of any provision of this title to any person or circumstances is held invalid, the remainder of this title and the application of the provision to other persons and circumstances shall not be affected by the invalidity.

SEC. 438. REPEAL OF SUPERSEDED LAWS.

(a) Repeal.--The following provisions of law are repealed:

(1) The Act of August 20, 1912 (commonly known as the ``Plant Quarantine Act'')(7 U.S.C. 151-164a, 167).

(2) The Federal Plant Pest Act (7 U.S.C. 150aa et seq., 7 U.S.C. 147a note).

(3) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(4) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), except the first section and section 15 of that Act (7 U.S.C. 2801 note; 7 U.S.C. 2814).

(5) The Act of January 31, 1942 (commonly known as the ``Mexican Border Act'')(7 U.S.C. 149).

(6) The Joint Resolution of April 6, 1937 (commonly known as the ``Insect Control Act'')(7 U.S.C. 148 et seq.).

(7) The Halogeton Glomeratus Act (7 U.S.C. 1651 et seq.).

(8) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(9) Section 1773 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 148f).

(b) Emergency Transfer Authority Regarding Plant Pests.--The first section of Public Law 97-46 (7 U.S.C. 147b) is amended--

(1) by striking ``plant pests or''; and

(2) by striking ``section 102 of the Act of September 21, 1944, as amended (7 U.S.C. 147a), and''.

(c) Effect on Regulations.--Regulations issued under the authority of a provision of law repealed by subsection (a) shall remain in effect until such time as the Secretary issues a regulation under section 434 that supersedes the earlier regulation.

Subtitle D--Authorization of Appropriations

SEC. 441. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out this title. Except as specifically authorized by law, no part of the money appropriated under this section shall be used to pay indemnities for property injured or destroyed by or at the direction of the Secretary.

SEC. 442. TRANSFER AUTHORITY.

(a) Authority To Transfer Certain Funds.--In connection with an emergency in which a plant pest or noxious weed threatens any segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the spread of the plant pest or noxious weed and for related expenses.

(b) Availability.--Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.

TITLE V--INSPECTION ANIMALS

SEC. 501. CIVIL PENALTY.

(a) In General.--Any person that causes harm to, or interferes with, an animal used for the purposes of official inspections by the Department of Agriculture, may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary of Agriculture not to exceed \$10,000.

(b) Factors in Determining Civil Penalty.--In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the offense.

(c) Settlement of Civil Penalties.--The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this section.

(d) Finality of Orders.--

(1) In general.--The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(2) Interest.--Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

SEC. 502. SUBPOENA AUTHORITY.

(a) In General.--The Secretary shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the enforcement of section 501 or any matter under investigation in connection with this title.

(b) Location of Production.--The attendance of any witness and the production of documentary evidence may be required

from any place in the United States at any designated place of hearing.

(c) Enforcement of Subpoena.--In the case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony of any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court's order may be punished by the court as a contempt of the court.

(d) Compensation.--Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken, and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

(e) Procedures.--The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) Scope of Subpoena.--Subpoenas for witnesses to attend court in any judicial district or testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under section 501 may run to any other judicial district.

And the Senate agree to the same.

Larry Combest,
Bill Barrett,
John Boehner,
Thomas W. Ewing,
Richard Pombo,
Charlie Stenholm,
Gary Condit,
Collin C. Peterson,
Cal Dooley,

Managers on the Part of the House.

Richard G. Lugar,
Jesse Helms,
Thad Cochran,
Paul Coverdell,
Pat Roberts,
Tom Harkin,
Patrick Leahy,
Kent Conrad,
Bob Kerrey,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2559), to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes, submit the following joint statement to the

House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.\1\ In the case where a provision of the House bill or the Senate amendment is adopted under the Conference substitute, report language appurtenant to such provision

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of the House bill or Senate amendment, respectively, stands.

\1\ In general, the Statement of Managers is arranged in order by title of the conference substitute, and by the House bill within the title.

Short title

The House bill provides that this Act may be cited as the ``Agricultural Risk Protection Act of 1999.'' (Section 1)

The Senate amendment provides that this Act may be cited as the ``Risk Management for the 21st Century Act.'' (Section 1)

The Conference substitute adopts the House provision providing that the Act be cited as the ``Agricultural Risk Protection Act of 2000.'' (Section 1)

TITLE I--CROP INSURANCE COVERAGE

<crunch>

TITLE IV--PLANT PROTECTION

The Conference substitute adopts a new provision which consolidates and enhances

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the authority of the Secretary to regulate in interstate and foreign commerce, the movement of any plant, plant product, biological control organism, or noxious weed if the Secretary determines the action is necessary to prevent the introduction or dissemination of a plant pest or noxious weed:

Sec. 401. Short title and table of contents

The short title of this Act is the ``Plant Protection Act.'' This section also contains the table of contents for the Act.

Sec. 402. Findings

Sec. 403. Definitions

Sections 3(1), (3)-(8), (11), (17), and (19) are all new definitions, but are commonly accepted definitions for the words, ``article,'' ``enter and entry,'' ``export and exportation,'' ``import and importation,'' ``interstate,'' ``interstate commerce,'' ``means of conveyance,'' ``permit,'' ``State,'' and ``this Act.''

Sec. 403(2) is new. Defining biological control organisms separately makes our authority over these organisms explicit when they present a potential plant pest risk.

Sec. 403(9), (12), (13), (15), (16), and (20), ``move and related terms,'' ``person,'' ``plant,'' ``plant product,'' ``Secretary,'' and ``United States'' have all been derived

from existing law with little or no modification.

Sec. 403(10), ``noxious weed,'' has been expanded from existing law.

Sec. 403(14), ``plant pest,'' has been expanded to include all vertebrate and invertebrate animals, except humans.

Sec. 403(18), ``systems approach,'' is new.

Subtitle A--Plant Protection

Sec. 411. Regulation of movement of plant pests

Prohibits the importation, entry, exportation, or movement in interstate commerce, mailing, or delivery (from any post office or by any mail carrier) of any plant pest unless the movement is in accordance with regulations issued by the Secretary. All processes used to develop such regulations will be transparent and accessible and the regulations will be based on sound science. This provision does not authorize the opening of any mail unless such action is authorized under postal laws. This section would authorize the Secretary to issue regulations that allow the movement of a plant pest in interstate commerce without restriction. Also provides for a petition process to add or remove plant pests from regulation.

Sec. 412. Restrictions on movement

Authorizes the Secretary to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or mean of conveyance if the Secretary determines the action is necessary to prevent the introduction or dissemination of a plant pest or noxious weed. Within 1 year after the Act is enacted, the Secretary shall publish for public comment a notice describing the processes governing such import requests. Requires the Secretary to conduct a study of the effectiveness of using systems approaches to guard against the introduction into the United States of plant pathogens associated with proposals for imported plants or plant products. Not later than 2 years after the Act is enacted, the Secretary shall report to Congress on the results of this study. Authorizes the Secretary to determine by regulation those noxious weeds and biological control organisms that may or may not freely move within interstate commerce. A person may petition the Secretary to add or remove individual plant species or biological control organisms from such regulations.

Sec. 413. Notification and holding requirements upon arrival

Requires the Secretary of Treasury to notify promptly the Secretary of Agriculture of the arrival of plants, plant products, biological control organisms, plant pests, or noxious weeds at the port of entry. It also requires the Secretary of Treasury to hold the articles until the Secretary of Agriculture has inspected or otherwise released them.

Further, section 413 requires persons responsible for articles for which a permit under sections 411 or 412 to notify the Secretary of Agriculture or appropriate official in the State of destination of relevant information concerning the shipment before moving it from the port of entry. Finally, section 413 prohibits the movement of any imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance from the port of entry or interstate unless it has been inspected or otherwise released by the Secretary of Agriculture.

Sec. 414. Remedial measures

Section 414 authorizes the Secretary to hold, seize, quarantine, treat, apply other remedial measures to, destroy,

or dispose of any plant; plant pest; noxious weed; biological control organism; plant product; article; or means of conveyance; and progeny of any plant product, plant pest, biological control organisms, or noxious weed in interstate or foreign commerce under various circumstances in order to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed in the United States. Authorizes the Secretary to order an owner (including the owner's agent) of any item subject to action under subsection (a) to treat, apply other remedial measures, to destroy, or otherwise dispose of such item without cost to the Federal Government in a manner the Secretary deems appropriate. If the owner fails to take action as ordered, the Secretary may take the action and recover the costs of the actions from the owner or his agent. The Secretary is authorized to develop a classification system and integrated management plan regarding noxious weeds. Requires the Secretary to take the least drastic action to prevent the dissemination of a plant pest or noxious weed.

Sec. 415. Declaration of extraordinary emergency

Authorizes the Secretary to declare an extraordinary emergency in certain situations. Once an extraordinary emergency is declared, the Secretary can take actions to prohibit or restrict movement or require that other actions be taken concerning regulated items regardless of whether the items are moving in interstate commerce. Action can be taken only if the Secretary finds that the actions taken by the State are not adequate and the Secretary publishes those findings in the Federal Register. Actions the Secretary takes must also be the least drastic actions that are feasible to deal with the plant pest or noxious weed problem. Finally, the Secretary is authorized to pay compensation for economic losses.

Sec. 416. Recovery of compensation for unauthorized activities

Authorizes the owners of plants, biological control organisms, plant products, plant pests, noxious weeds, articles, or means of conveyance destroyed or disposed of under section 414 or 415 to bring an action not later than 1 year after the destruction or disposal in U.S. district court and for the owner to recover just compensation for an unauthorized destruction or disposal of such property.

Sec. 417. Control of grasshoppers and mormon crickets

Subject to the availability of funding, the Secretary shall carry out control programs for grasshoppers and Mormon crickets on Federal, State, and private lands to protect rangeland. Authorizes the pooling of funds between the Department of Agriculture and the Department of the Interior to conduct such programs on Federal lands controlled by the Department of the Interior. This section also provides the formula for the Federal cost share for treatment programs.

Sec. 418. Certification for exports

Authorizes the Secretary to certify for export plants, plant products, and biological control organisms as to freedom from plant pests or noxious weeds or exposure to plant pests or noxious weeds according to phytosanitary or other requirements of the exporting country.

Subtitle B--Inspection and Enforcement

Sec. 421. Inspections, seizures, warrants

Authorizes warrantless inspections based on guidelines approved by the Attorney General: (1) of persons or means of conveyance moving into the United States to determine whether they are carrying any regulated material; (2) of persons or means of conveyance moving interstate upon probable cause to believe that they are carrying regulated material; and (3) of

any person or means of conveyance moving intrastate under extraordinary emergency conditions (see section 415) upon probable cause to believe that they are carrying regulated material. The Secretary is also authorized to enter premises with a warrant issued by a Federal judge to make inspections and seizures necessary under the Act.

Sec. 422. Collection of information

Authorizes the Secretary to gather and compile information and to conduct investigations necessary for the administration and enforcement of the Act.

Sec. 423. Subpoena authority

Authorizes the Secretary to require the attendance of witnesses and production of documentary evidence through the use of subpoenas to aid in investigations and proceedings. This provision also authorizes the Secretary to request the Attorney General to take actions to enforce such subpoenas.

Sec. 424. Penalties for violation

Allows for criminal penalties as provided under Title 18 of the U.S. Code for knowing violations of the Act or any misuse of a permit, certificate, or other document. It also provides for civil penalties for violations of the Act, including forging, counterfeiting, using in an unauthorized manner, altering, defacing, or destroying any certificate, permit, or document provided for under the Act not to exceed the greater of: (1) \$50,000 for an individual, \$250,000 for any other violation by a person, and \$500,000 for all violations adjudicated in the same proceeding, or (2) twice the gross gain or gross loss associated with the violation. The penalty has been increased from \$1,000 per violation. Finally, section 204 authorizes the issuance of a notice of warning in lieu of criminal prosecution.

Sec. 425. Attorney General enforcement actions

Authorizes the Attorney General to prosecute criminal violations of the Act; bring an action to enjoin violation of or compel compliance with the Act; or bring an action for recovery of reimbursable funds, civil penalties, late payment penalties, or interest that has not been paid.

Sec. 426. Court jurisdiction

Delineates the jurisdiction of courts in most cases arising under the Act.

Subtitle C--Miscellaneous Provisions

Sec. 431. Cooperation

Authorizes the Secretary to cooperate with other Federal agencies, States or their political subdivisions, foreign governments or

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their political subdivisions, domestic or international organizations or associations, or other persons to carry out the Act. Section 301 authorizes the Secretary to transfer biological control technology to States, Federal agencies, or other persons for use in control of plant pests or noxious weeds. Section 301 also authorizes cooperation with States and other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms. Finally, Section 431 authorizes the Secretary to ensure that all phytosanitary import/export issues are addressed based on sound science and consistent with applicable international agreements.

Sec. 432. Buildings, land, people, claims, and agreements

Authorizes the Secretary to acquire and maintain real or personal property for special purposes; to enter into contracts, cooperative agreements, memoranda of understanding, and other agreements; to employ any person; or

to make grants necessary for carrying out this Act. Section 432 also authorizes the payment of tort claims when the claims arise outside the United States in connection with activities authorized by this Act. Claims must be presented in writing within 2 years after the claim accrues.

Sec. 433. Reimbursable agreements

Authorizes the Secretary to enter into reimbursable fee agreements for preclearance at locations outside the United States for plants, plant products, biological control organisms, and articles. Funds collected are credited to accounts established by the Secretary and remain available until expended. Section 433 also authorizes the Secretary to pay employees performing inspection, quarantine, or other services relating to imports and exports for all overtime, night, or holiday work and to require the person for whom the service is performed to reimburse the Secretary for the services.

Sec. 434. Regulations and orders

Authorizes the Secretary to issue orders and regulations necessary to carry out this Act.

Sec. 435. Protection for mail handlers

This Act shall not apply to any employee of the United States in the performance of the duties of the employee in handling the mail.

Sec. 436. Preemption

Provides that no State or political subdivision may take an action to regulate in foreign commerce any article or means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order to control or eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.

Similarly, no State or political subdivision may take an action to regulate interstate commerce different from Federal regulations in any of the delineated items; control a plant pest or noxious weed; eradicate a plant pest or noxious weed; or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed if the Secretary has issued a regulation or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed. However, if State or local officials can demonstrate a special local circumstance, they can petition the Secretary to allow for the imposition of additional prohibitions or restrictions by the State or local government.

Sec. 437. Severability

Contains standard severability language.

Sec. 438. Repeals

Enumerates the list of laws being repealed and replaced by this Act.

Subtitle D--Authorizations of Appropriations

Sec. 441. Authorization of appropriations

Authorizes the appropriation of such amounts necessary to carry out this Act. Unless specifically authorized, no part of appropriated funds shall be used for indemnification purposes.

Sec. 442. Transfer authority

Authorizes the Secretary to transfer funds without fiscal year limitation from any agency or corporation of the Department to arrest, control, eradicate, and/or prevent the spread of a plant pest or noxious weed in connection with a threatening agricultural emergency.

Title V--Inspection Animals

Sec. 501. Inspection animal civil penalties

Provides for civil penalties of up to \$10,000 for causing harm to or interfering with a Department of Agriculture inspection animal.

Sec. 502. Inspection animal subpoena authority

Authorizes the Secretary to require the attendance of witnesses and production of documentary evidence through the use of subpoenas to aid in investigations and proceedings. This provision also authorizes the Secretary to request the Attorney General to take actions to enforce such subpoenas.

Larry Combest,
Bill Barrett,
John Boehner,
Thomas W. Ewing,
Richard Pombo,
Charlie Stenholm,
Gary Condit,
Collin C. Peterson,
Cal Dooley,

Managers on the Part of the House.

Richard G. Lugar,
Jesse Helms,
Thad Cochran,
Paul Coverdell,
Pat Roberts,
Tom Harkin,
Patrick Leahy,
Kent Conrad,
Bob Kerrey,

Managers on the Part of the Senate.
